

112TH CONGRESS
2D SESSION

S. 2080

To authorize depository institutions, depository institution holding companies, Fannie Mae, and Freddie Mac to lease foreclosed property held by such entities for up to 5 years, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2012

Mr. HELLER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize depository institutions, depository institution holding companies, Fannie Mae, and Freddie Mac to lease foreclosed property held by such entities for up to 5 years, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keeping Families in
5 their Home Act of 2012”.

1 **SEC. 2. BANK LEASING OF FORECLOSED PROPERTIES.**

2 (a) IN GENERAL.—Section 18 of the Federal Deposit
3 Insurance Act (12 U.S.C. 1828) is amended by adding at
4 the end the following:

5 “(aa) LEASING OF FORECLOSED PROPERTY.—

6 “(1) LEASING AUTHORIZED.—

7 “(A) IN GENERAL.—A depository institu-
8 tion or any affiliate of a depository institution,
9 subject to this subsection and regulations pre-
10 scribed under this subsection, may lease to any
11 person, including a lease with an option to pur-
12 chase or a right of first refusal, for not to ex-
13 ceed 5 years, an interest in residential property
14 which—

15 “(i) was or is security for an exten-
16 sion of credit by such depository institution
17 or affiliate; and

18 “(ii) came under the ownership or
19 control of the depository institution or af-
20 filiate through foreclosure, or a deed in
21 lieu of foreclosure, on the extension of
22 credit.

23 “(B) PREEMPTION.—Subparagraph (A)
24 shall apply, notwithstanding any other provision
25 of Federal or State law—

1 “(i) restricting the time during which
2 a depository institution or any affiliate of
3 a depository institution may hold or lease
4 property; or

5 “(ii) prohibiting a depository institu-
6 tion or any affiliate of a depository institu-
7 tion from leasing property.

8 “(2) SAFETY AND SOUNDNESS REGULATIONS.—
9 The Federal banking agencies shall jointly prescribe
10 regulations which—

11 “(A) establish criteria and minimum re-
12 quirements for the leasing activity of any depos-
13 itory institution or affiliate of a depository in-
14 stitution, including minimum capital require-
15 ments, that the agencies determine to be appro-
16 priate for the preservation of the safety and
17 soundness of the depository institution or affil-
18 iate;

19 “(B) establish requirements or exceptions
20 that the agencies determine are appropriate
21 under this subsection for any such depository
22 institution or affiliate for any other purpose;
23 and

24 “(C) provide for appropriate actions under
25 section 38 with respect to any such lease, as

1 necessary to protect the capital or safety and
 2 soundness of the depository institution or affil-
 3 iate or any other necessary enforcement action.

4 “(3) LENGTH OF LEASE.—If any provision of
 5 any Federal or State law, including the Bank Hold-
 6 ing Company Act of 1956, governing the permissible
 7 activities of depository institutions or affiliates of de-
 8 pository institutions permits a depository institution
 9 or any such affiliate to hold property as described in
 10 paragraph (1) for a period longer than 5 years, any
 11 lease under paragraph (1) may be extended to the
 12 extent permitted by such provision of law.

13 “(4) SUNSET.—This section shall apply only
 14 with respect to leases entered into during the 3-year
 15 period beginning on the date of enactment of the
 16 Keeping Families in their Home Act of 2012.”.

17 (b) INTENT OF CONGRESS.—It is the intent of Con-
 18 gress that—

19 (1) no permanent change in policy on leasing
 20 foreclosed property is established by virtue of the en-
 21 actment of this section with respect to depository in-
 22 stitutions and depository institution holding compa-
 23 nies; and

24 (2) subsection (aa) of section 18 of the Federal
 25 Deposit Insurance Act (as added by this section)

1 should not apply to leases entered into after the sun-
2 set date contained in such subsection.

3 **SEC. 3. GOVERNMENT SPONSORED ENTERPRISE LEASING**
4 **OF FORECLOSED PROPERTIES.**

5 (a) IN GENERAL.—For the purpose of mitigating
6 losses to the taxpayer and stabilizing home prices, an en-
7 terprise may market for rental any real estate owned prop-
8 erties and assets of such enterprises and enter into lease
9 agreements with lessees, as the Federal Housing Finance
10 Agency determines appropriate, prior to the sale of such
11 properties and assets, except that any such lease agree-
12 ment shall be for a term that is not longer than 5 years.
13 Authority to enter into leasing agreements pursuant to
14 this subsection shall terminate 3 years after the date of
15 enactment of this Act.

16 (b) ENTERPRISE DEFINED.—The term “enterprise”
17 means—

- 18 (1) the Federal National Mortgage Association;
19 and
20 (2) the Federal Home Loan Mortgage Corpora-
21 tion.

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